THE ENERGY REGULATION ACT, 2019

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SCHEDULES

GOVERNMENT OF ZAMBIA

ACT

No. 12 of 2019

Date of Assent: 27th December, 2019

An Act to provide for the licensing of enterprises in the energy sector; continue the existence of the Energy Regulation Board and re-define its functions; re-constitute and revise the functions of the Board; repeal and replace the Energy Regulation Act, 1995; and provide for matters connected with, or incidental to, the foregoing.

[27th December, 2019

ENACTED by the Parliament of Zambia. Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Energy Regulation Act, 2019, and shall come into operation on the date appointed by the Minister by statutory instrument. Short title and commencement

2. In this Act, unless the context otherwise requires— Interpretation

" activity " means a commercial activity, excluding an activity which the Minister, by statutory instrument, declares not to constitute an activity for the purposes of this Act whether public or private, for the —

(a) production, generation transmission, distribution or supply of energy;

(b) production, refining, transportation, storage, trading or supply of energy or fuel; or

(c) manufacturing, distribution or supply of equipment used for any activity mentioned in paragraph *(a)* or *(b)*, other than equipment—

(i) designed for ordinary household use;

(ii) of a design or type prescribed by the Minister;

(iii) designed or used for a purpose, or in circumstances, that may be prescribed;

(iv) for the export of electricity;

(v) for the import of electricity;

(vi) for the sale and trading of electricity by asset and non-asset owner; or

(vii) for transmission and distribution service provision by intermediary power trader or off-taker;

Act No. 9 of 2000

" arbitration " has the meaning assigned to the word in the Arbitration Act, 2000;

Act No. 3 of 2012

" associate " has the meaning assigned to the word in the Anti-Corruption Act, 2012;

" base cost " means the capital costs associated with conceiving, designing, planning and implementing through engineering, procurement and construction of an enterprise for which a licence is being sought, applying the best utility industry practice standards, including equipment, materials, civil works, development costs, pre-operating costs and associated imported duties and taxes;

" Board " means the Board of the Energy Regulation Board constituted under section 5;

" Chairperson " means a person appointed as Chairperson under section 5;

" charges " include prices, fees, rates, surcharges, levies, penalties, deposits, connection charges or fees, use of system charges or any other charge made for the provision of any service, commodity or product that a licensee renders in the course of carrying out its licensed activity;

Act No. 11 of 2019

" common carrier " has the meaning assigned to the words in the Electricity Act, 2019;

Act No. 24 of 2010

" Competition and Consumer Protection Commission " means the Competition and Consumer Protection Commission established under the Competition and Consumer Protection Act, 2010;

" consumer " means a person to whom energy is supplied or who has applied and paid for the supply of energy;

" Director-General " means the person appointed as Director-General under section 8;

"Emoluments Commission " means the Emoluments Commission established under the Constitution; Cap. 1

" energy " means—

(a) a source of electrical, mechanical, thermal, nuclear or chemical power for any use, and includes electricity, petroleum, coal, other fossil fuels, geothermal, natural gas, biomass and its derivatives municipal waste, solar, wind and tidal wave power; and

(b) energy produced by any other means that the Minister may, on recommendation of the Board, prescribe by statutory instrument;

" Energy Regulation Board " means the Energy Regulation Board continued under section 3;

" enterprise " means an entity engaged in the production, generation, transmission, distribution, supply of energy, intermediary power trading, refining, transportation, storage, trading or supply of fuel or any other licensed activity under this Act;

" inspector " means a person appointed as inspector under section 23;

" legally disqualified " means having no legal capacity as provided in section 4 of the Mental Health Act, 2019; Act No. 6 of 2019

" licence " means a licence issued by the Board under section 12;

" licensee " means a holder of a licence in relation to—

(a) petroleum, in the—

(i) pipeline transportation of crude oil, petroleum products and natural gas;

(ii) refining of petroleum products;

(iii) processing of natural gas;

(iv) terminal storage of petroleum products;

(v) wholesale marketing of petroleum products;

(vi) distribution, importation and exportation of petroleum products;

(vii) retail of petroleum products;

(viii) transportation of petroleum products; and

(ix) transportation and marketing of coal;

(b) electricity, in the -

(i) generation of electricity;

(ii) transmission of electricity;

(iii) distribution of electricity;

(iv) supply or trading of electricity; and

(v) system operation of the power system and transmission and distribution service provision;

(c) renewable energy, in the—

(i) manufacture, supply, installation and maintenance of renewable energy generating equipment; and

(ii) production, storage, marketing and transportation of renewable energy; and

(d) any other activity as the Minister may prescribe by statutory instrument;

" licensed activity " means an activity authorised under a licence issued by the Board;

" permit " means a permit referred to under section 22;

" power purchase agreement " has the meaning assigned to the words in the Electricity Act, 2019;

Act No. 11 of 2019

" power supply agreement " has the meaning assigned to the words in the Electricity Act, 2019;

Act No. 11 of 2019

" prudent utility practice " means the practice, method, and act at a particular time which, in the exercise of reasonable judgment, in the light of the facts, including the practices, methods, and acts engaged in or approved by a significant portion of the electrical utility industry prior thereto, known at the time, the decision was made, would have been

expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition;

" relative " has the meaning assigned to the word in the Anti-Corruption Act, 2012; Act No. 3 of 2012

" renewable energy " means energy that is derived from natural sources that are replenished constantly;

" repealed Act " means the Energy Regulation Board Act, 1995; Cap. 436

" tariff " means the unit price relating to the production, supply and distribution of energy to any consumer;

" Vice-Chairperson " means the person elected as Vice-Chairperson under section 5;

" Zambia Bureau of Standards " means the Zambia Bureau of Standards established under the Standards Act, 2017; and Act No. 4 of 2017

" Zambia Environmental Management Agency " means the Zambia Environmental Management Agency established under the Environmental Management Act, 2011. Act No. 12 of 2011

PART II

THE ENERGY REGULATION BOARD

Continuation of Energy Regulation Board

3. (1) The Energy Regulation Board established under the repealed Act shall continue to exist as if established under this Act.

(2) The Energy Regulation Board is a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to the provisions of this Act, to do acts and things that a body corporate may, by law, do or perform.

(3) The First Schedule applies to the Energy Regulation Board

Functions of Energy Regulation Board

4. The functions of the Energy Regulation Board are to—

(a) issue licences under this Act;

(b) in collaboration with the Competition and Consumer Protection Commission—

(i) investigate and monitor the levels and structures of competition within the energy sector with a view of promoting competition and accessibility to a licensee or enterprise complying with the basic requirement for operating as a business in the Republic; and

(ii) develop and implement appropriate rules to promote competition in the energy sector;

(c) monitor, in collaboration with any other relevant regulatory body, the efficiency and performance of a licensee and an enterprise, having regard to the purposes for which the licensee and the enterprise were licensed or established;

(d) disseminate information and promote the participation of the public in the provision of energy services;

(e) receive, investigate and determine complaints from consumers on—

(i) tariffs and charges provided by a licensee;

(ii) quality of energy products and services provided by a licensee; or

(iii) its own initiative concerning the location or construction of an energy facility or an installation or the carrying out of any works by a licensee;

(f) approve the location and construction of a common carrier or an energy facility or installation or the carrying out of any works by a licensee or enterprise and regulate that location and construction by attaching terms and conditions to the licence or a permit held by a licensee and enterprise under this Act or any other applicable written law;

(g) stipulate conditions relating to the location, installation or construction of a common carrier, or an energy facility or an installation;

(h) in collaboration with the Zambia Bureau of Standards, design standards with regard to the quality, safety and reliability of the supply of energy;

(i) in collaboration with the Zambia Environmental Management Agency, formulate measures to minimise the environmental impact of activities carried out in the energy sector;

(j) determine, regulate and review charges and tariffs in the energy sector;

(k) approve, review and regulate power purchase agreements and power supply agreements;

(l) subject to the Compulsory Standards Act, 2017, and the Standards Act, 2017 establish performance standards and monitor the attainment of performance standards by licensees and enterprises in the energy sector; Act No. 3 of 2017 Act No. 4 of 2017

(m) develop operating procedures, codes of practice, guidelines for incentive-based regulation and specifications;

(n) initiate, conduct and promote research surveys, studies, training and investigations in the energy sector;

(o) promote, development and the use of new and appropriate technologies in the energy sector;

(p) develop an enforcement manual to regulate non-compliance in the energy sector;

(q) make recommendations to the Minister on various issues in the energy sector;

(r) conduct any inquiry and investigation connected with any activities under this Act;

(s) make orders and enforce performance compliance as provided under this Act to the extent applicable;

(t) issue directives to licensees from time to time in relation to the licensed activity;

(u) impose an administrative penalty against a licensee for violation of licence conditions under a licence held by the licensee, or for failure to abide by the directives issued under this Act or any other relevant written law; and

(v) order immediate closure of energy facilities that are operating in contravention with this Act with respect to the safety and health of persons or consumers.

Establishment of Board

5. (1) There is constituted a Board which consists of the following seven part-time members appointed by the Minister:

(a) the Chairperson;

(b) a representative of the Engineering Institution of Zambia;

(c) a representative of the Zambia Institute of Chartered Accountants;

(d) a representative of the Law Association of Zambia;

(e) a representative of the Economics Association of Zambia;

(f) a representative of the Zambia Environmental Management Agency;

(g) one person with relevant knowledge and experience in matters relating to this Act.

(2) The members shall elect the Vice-Chairperson from among themselves.

(3) The institutions or organisations referred to in subsection (1) shall nominate their representatives for appointment by the Minister.

(4) A person shall not be appointed as a member of the Board if that person—

(a) is not a citizen;

(b) is an undischarged bankrupt;

(c) is legally disqualified from performing the functions of a member;

(d) is convicted of an offence under this Act or any other law and sentenced to a term of imprisonment exceeding six months without the option of a fine; or

(e) holds or is elected to hold a political office.

Functions of Board

6. (1) Subject to the other provisions of this Act, the Board shall provide strategic policy direction to the Energy Regulation Board.

(2) Despite the generality of subsection (1), the functions of the Board are to—

(a) approve the annual budget estimates and financial statements of the Energy Regulation Board;

(b) approve the annual work plan and activity reports of the Energy Regulation Board;

(c) promote effective corporate governance of the Energy Regulation Board; and

(d) formulate the policies, programmes and strategies of the Energy Regulation Board.

Delegation of functions

7. (1) The Board may, subject to any conditions imposed and guidelines issued by the Board, delegate any of its functions to the Director -General.

(2) The Minister may give to the Board general or specific directions, which are consistent with the provisions of this Act, relating to the performance of its functions and the Board shall give effect to those directions.

Director-General, Secretary and other staff

8. (1) The Board shall appoint a Director-General who shall be—

(a) the Chief Executive officer of the Energy Regulation Board; and

(b) responsible for the day-to-day administration of the Energy Regulation Board.

(2) The Director-General shall be an *ex officio* member of the Board.

(3) The Board shall appoint the Secretary who shall perform corporate secretarial duties for the Board and other functions as the Energy Regulation Board may determine, under the direction of the Board and the Director-General.

(4) The Board shall appoint inspectors and other staff of the Energy Regulation Board that the Energy Regulation Board considers necessary for the performance of its functions.

(5) The Emoluments Commission shall, on the recommendation of the Board, determine the emoluments of the Director-General, Secretary, inspectors and other staff of the Energy Regulation Board.

(6) The Board shall determine the terms and conditions of service, other than emoluments, of the Director-General, Secretary, inspectors and other staff of the Energy Regulation Board.

PART III

LICENCES

Single licensing system

Act No. 3 of 2014

9. (1) The Energy Regulation Board shall operate a single licensing system for the energy sector in accordance with the Business Regulatory Act, 2014.

(2) Where a licence is obtained in accordance with subsection (1), the Energy Regulation Board shall endorse on the licence—

(a) the name of the licence;

(b) the nature and scope of the activity authorised under the licence;

(c) the conditions attached to the licence; and

(d) any other relevant information that the Business Regulatory Review Agency may request to be so endorsed.

Prohibition of establishing or operating enterprise without licence

10. (1) A person shall not establish or operate an enterprise without a licence issued under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Application for licence

Act No. 12 of 2011

11. Subject to the Environmental Management Act, 2011, a person who intends to establish or operate an enterprise or carry out a licensed activity shall apply to the Energy Regulation Board for a licence in the prescribed manner and form, on payment of the prescribed fee.

Consideration and grant of licence

12. (1) Subject to subsection (2), the Energy Regulation Board shall, within sixty days of receipt of a complete application under section 11, grant or reject the application and inform the applicant of the decision of the Energy Regulation Board.

(2) Where the Energy Regulation Board fails to inform the applicant of its decision on an application for a licence, within the period specified in subsection (1), the application shall be deemed to have been granted.

(3) The Energy Regulation Board shall, where it intends to grant an application under this section, publish a notice in the *Gazette* of its intention to grant a licence.

Provisional licence

13. The Energy Regulation Board may, where the applicant meets the requirements of this Act, issue a provisional licence authorising the applicant to establish or operate an enterprise in accordance with this Act, for a specified period and on conditions that may be attached to the provisional licence.

Conditions for refusal to grant licence

14. (1) The Energy Regulation Board may, after due consideration refuse to grant a licence on the ground that the applicant—

(a) has not provided the Energy Regulation Board with information relating to the applicant or any person employed by or associated with the applicant, or any other information required as prescribed;

(b) may be incapable of performing the activities to which the licence relates;

(c) is an undischarged bankrupt;

(d) or any person employed by, or associated with, the applicant for the purposes of an activity to which the licence relates, has been convicted, whether in the Republic or elsewhere, of an offence involving fraud or dishonesty, or has been convicted of an offence under this Act;

(e) is not a fit and proper person to be granted a licence as prescribed; or

(f) is unable to meet minimum financial, solvency and liquidity requirements or other criteria that may be prescribed.

(2) Where the Energy Regulation Board refuses to grant a licence in accordance with this section, it shall notify the applicant, stating the reasons for the refusal.

Validity, terms and conditions of licence

15. (1) A licence, granted in accordance with section 12, shall remain valid unless earlier revoked or cancelled by the Energy Regulation Board or surrendered by the licensee.

(2) A licence shall be granted subject to the payment of the prescribed fee and conditions of the licence and any provision of this Act.

(3) Despite subsection (2), the conditions of a licence shall include conditions requiring the payment to the Energy Regulation Board of an annual licence fee not exceeding zero point eight per centum of the annual gross turnover of the licensee.

(4) A licence granted in accordance with section 12 shall not be transferred, assigned or encumbered in any manner without prior approval of the Energy Regulation Board.

(5) The Energy Regulation Board may impose additional conditions on a licence that the Energy Regulation Board considers appropriate for the enforcement of the requirements of this Act and any other relevant written law.

Variation of conditions of licence

16. (1) The Energy Regulation Board may vary the conditions of a licence, granted in accordance with this Act, after due investigations of the activities of the licensee.

(2) The Energy Regulation Board shall, before varying the terms and conditions of the licence under this section, give notice in writing, to the licensee of the Energy Regulation Board's decision.

(3) The Energy Regulation Board may approve the amendment of a licence to accommodate any variations requested by the licensee.

(4) The Energy Regulation Board shall, on varying the licence, notify the licensee of the variation, in writing, and the notice shall state the effective date of the variation.

Surrender of licence

17. (1) A licensee that intends to surrender a licence shall notify the Energy Regulation Board, in writing in the prescribed manner and form of its intention to do so.

(2) A licensee shall agree with the Energy Regulation Board on the terms and conditions with respect to a surrender of a licence, with particular reference to any benefit obtained or liability incurred due to the licence or the requirements of any other relevant written law.

(3) Where a licence is surrendered in accordance with subsection (1), and the Energy Regulation Board is satisfied that the liabilities are or shall be satisfied and the requirements of the Companies Act, 2017 or the Corporate Insolvency Act, 2017, where applicable have or shall be compiled with, the Energy Regulation Board shall cancel the licence.

Act No. 10 of 2017

Act No. 9 of 2017

Transfer, ceding, pledge, assignment, disposal or encumbrance of licence

18. (1) Subject to section 15(4), a licensee shall apply to the Energy Regulation Board for a transfer, pledge, assignment or encumbrance of a licence, in the event of a corporate restructuring transaction in the prescribed manner and form, on payment of the prescribed fee.

(2) The Energy Regulation Board may, within thirty days of receipt of an application made in accordance with subsection (1)—

(a) approve the application on the terms and conditions as the Energy Regulation Board may determine; or

(b) reject the application and give reasons for the rejection.

Suspension or revocation of licence

19. (1) Subject to this Act or any other written law, the Energy Regulation Board may suspend or revoke a licence if the licensee—

(a) obtained the licence on the basis of fraud, false information or statement or misrepresentation;

(b) fails to comply with a term or condition of the licence;

(c) enters into receivership or liquidation or takes up an action for voluntary winding up or dissolution;

(d) is the subject of an order that is made by a court for compulsory winding up or dissolution; or

(e) has ceased to fulfil the eligibility requirement under this Act.

(2) In addition to subsection (1), the Energy Regulation Board may, in the public interest, suspend or revoke a licence.

(3) The Energy Regulation Board shall, before suspending or revoking a licence in accordance with subsection (1), notify the licensee of its intention to suspend or revoke the licence and shall -

(a) give reasons for the intended suspension or revocation; and

(b) require the holder to show cause, within a period of not more than thirty days, why the licence should not be suspended or revoked.

(4) The Energy Regulation Board shall not suspend or revoke a licence under this section if the licensee takes remedial measures to the satisfaction of the Energy Regulation Board within the period referred to in subsection (3).

(5) The Energy Regulation Board shall, in making its final determination on the suspension or revocation of a licence, consider the submissions made by the licensee under subsection (3).

(6) The Energy Regulation Board may suspend or revoke a licence if the holder after being notified under subsection (3) fails to show cause or does not take any remedial measures, to the satisfaction of the Energy Regulation Board, within the time specified in that subsection.

(7) Where a licence is revoked in accordance with this section, the licensee shall surrender that licence, subject to the conditions that the Energy Regulation Board may impose with respect to the winding up of the licensed activity or business.

(8) The Energy Regulation Board shall, where it suspends or revokes a licence under this section, publish the suspension or cancellation, as the case may be, in a daily newspaper of general circulation in the Republic.

Renewal of licence

20. (1) A licensee may, not less than three months before the expiry of a licence, apply to the Energy Regulation Board for the renewal of the licence in the prescribed manner and form, on payment of the prescribed fee.

(2) The Energy Regulation Board shall, within thirty days of receipt of the application under subsection (1) approve or reject the application.

(3) The Energy Regulation Board shall, where it rejects an application for renewal under subsection (2) inform the applicant, giving reasons for the rejection.

Register of licences

21. (1) The Energy Regulation Board shall cause to be kept a register of licences in the prescribed form.

(2) The register shall be kept by the Secretary at the offices of the Energy Regulation Board, and shall be open for inspection by members of the public during office hours on payment of a fee that the Energy Regulation Board may determine.

(3) The Director-General may, on an application by a person, issue to the person a certified extract from the applicable register or a copy of a licence issued to a licensee in accordance with this Act on payment of a fee that the Energy Regulation Board may determine.

Permit

22. A person who intends to construct an energy facility, installation or common carrier shall, prior to the issuance of a licence under the Act, apply for a permit in the prescribed manner and form.

PART IV

INSPECTORATE

Inspectors

23. (1) The Energy Regulation Board may, appoint a suitably qualified person to be an inspector for the purposes of ensuring compliance with this Act.

(2) The Energy Regulation Board shall issue an inspector with an identification card and a certificate of appointment in the prescribed form which shall be *prima facie* evidence of the inspector's appointment.

Powers of Inspectors

24. (1) An inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time and without notice—

(a) enter and inspect the licensed premises;

(b) inspect equipment and supplies in or about the licensed premises;

(c) have access to and inspect, examine and audit documents, books and records, of the licensee representing the gross revenue produced by the licensee under the licence;

(d) remove a document, book, record or other document which an inspector believes may afford evidence of an offence under this Act;

(e) require from a person whose in control of the premises an explanation of any record or entry in the document, book, record or other document;

(f) make copies of, extracts from, a document, book, record or other document relating to the licensed activity on any premises that has a bearing on an investigation; and

(g) remove from the licensed premises any equipment, commodity or product used in contravention of this Act.

(2) An inspector may perform an inspection for the purposes of ensuring a licensee's compliance with that licensee's obligations in relation to an activity.

(3) A licensee shall afford an inspector access to any record or document for purposes of an inspection and produce to the inspector, a record or document that the inspector may require.

(4) An inspector shall exercise the power under subsection (1)*(a)* in relation to a private dwelling house or any land or building occupied as a private dwelling, during the day with a warrant.

(5) An inspector who removes an article, document, record, book or any other thing from any premises under subsection (1), shall—

(a) issue a receipt for the article, document, record, book or any other thing to the owner or person in control of the premises; and

(b) return the article, document, record, book or any other document as soon as practicable after achieving the purpose for which it was removed.

Arrest without warrant

25. (1) An inspector may arrest a person, without a warrant, where the inspector has reasonable grounds to believe that the person—

(a) has committed an offence under this Act;

(b) is about to commit an offence under this Act and there is no other way to prevent the commission of the offence; or

(c) is willfully obstructing an inspector in the execution of the inspector's duties.

(2) An inspector who makes an arrest under subsection (1) shall, without undue delay, have the person arrested brought to a police station.

Seizure of property

26. A law enforcement officer may seize and detain property which the inspector has reason to believe was used to commit an offence under this Act until an order of the court is made regarding the disposal thereof.

Restoration of property

27. (1) A law enforcement officer shall, where a person from whom an article or other property has been seized under section 26 is found not guilty or the proceedings against that person are withdrawn—

(a) without unnecessary delay, restore the article or property to that person; or

(b) where the enforcement authority is satisfied that the person cannot be found or is unwilling to receive back the article or property, apply to the court for an order of forfeiture of the article or property.

(2) The court shall make an order of forfeiture under subsection (1) if —

(a) the law enforcement officer has given notice, by publication in the *Gazette* and in one daily newspaper of general circulation in the Republic, to the effect that the article or property which has been seized under this Act shall vest in the State if it is not claimed within three months from the date of publication of the notice; and

(b) three months after the giving of the notice under paragraph (a), the article or property remains unclaimed.

(3) Where a claim is made, in writing, by any person that is lawfully entitled to the article or property seized under this Act that the article or property is not liable to forfeiture under this Act, the law enforcement officer may order the release of the article or property to the claimant if satisfied that there is no dispute concerning the ownership of the article or property and that it is not liable to forfeiture.

(4) A law enforcement officer shall refer a claim to the court where a claim of ownership is made in relation to the article or property seized under this act and the law enforcement officer finds that—

(a) there is dispute regarding the ownership of the article or property;

(b) there is insufficient evidence to determine the ownership of the article or property; or

(c) an enforcement authority is unable to ascertain whether the article or property is liable to forfeiture or not.

Appointment of prosecutors

28. The Director of Public Prosecutions may at the request of the Energy Regulation Board appoint by name or rank an inspector or officer to undertake prosecution of offences alleged to have been committed by any person in contravention of this Act.

Honorary inspector

29. (1) The Energy Regulation Board may, by notice in the *Gazette*, on the terms and conditions that it may determine, appoint any suitable person as an honorary inspector for a period not exceeding three years, and may renew such appointment for a further three years.

(2) The Energy Regulation Board may, by notice in the *Gazette*, revoke or renew any appointment made under subsection (1).

(3) The appointment of an honorary inspector may be—

(a) general, to empower the honorary inspector to act in any area of the Republic; or

(b) limited, to empower the honorary inspector to act in such area of the Republic as may be specified in the instrument of appointment.

(4) Subject to the other provisions of this Act and to the terms of the instrument of appointment, an honorary inspector shall, within the terms of the appointment, exercise the functions and perform the duties of an inspector.

PART V

CONSUMER AFFAIRS

Consumer councils

30. (1) The Energy Regulation Board may establish in any part of the Republic, on its own or in conjunction with any other body, consumer councils on terms and conditions that it may determine.

(2) A consumer council shall, subject to the control and direction of the Energy Regulation Board, be responsible for the receipt, investigation and resolution of complaints received on behalf of the Energy Regulation Board.

(3) A consumer council shall, where it fails to resolve a consumer complaint, refer the matter to the Energy Regulation Board for consideration and determination.

Quality of goods and services Act No. 4 of 2017

31. Subject to the provision of the Standards Act, a licensee engaged in activities in the energy sector shall—

(a) meet the minimum standards relating to quality of goods and services as may be specified or published by the Energy Regulation Board; and

(b) address consumer complaints in accordance with the guidelines issued by the Energy Regulation Board under this Act.

Guidelines for handling complaints

32. (1) The Energy Regulation Board shall establish guidelines for the submission, receipt and handling of complaints of consumers regarding the provision of products and services regulated under this Act.

(2) The guidelines issued by the Energy Regulation Board under subsection (1) may include the procedure for—

(a) meeting consumers' needs and requirements;

(b) relating to compensation of consumers in the event of a breach of a licence condition;

(c) the provision of information to consumers regarding services, tariffs, charges and performance of the licensee;

(d) consumer connection, charging and billing; and

(e) any other matter relating to the provision of products and services under this Act.

(3) The Energy Regulation Board may resolve complaints from consumers relating to various matters including—

(a) the provision of goods and services by a licensee;

(b) consumer protection; and

(c) the failure by a licensee to comply with consumer protection guidelines issued by the Energy Regulation Board under this Act.

PART VI

OBJECTIONS AND APPEALS

Objection to licence application

33. (1) A person may lodge with the Energy Regulation Board an objection to the intention to grant a licence within fourteen days of the date of the publication of the notice of intention to grant the licence in the prescribed manner and form.

(2) An objection may be accompanied by written submissions and evidence in support of the objection.

(3) The Energy Regulation Board shall, where an objection and any supporting documentation, is not lodged within the period specified in the notice referred to under subsection (1), reject the objection.

(4) The Energy Regulation Board shall furnish the applicant for the licence with particulars of any objection made to the grant of a licence within seven days of receipt of the objection, and the applicant may, within fourteen days of receipt of the objection submit to the Energy Regulation Board a reply to the objection.

Appeal from decision of Energy Regulation Board

34. A person who is aggrieved with any decision of the Energy Regulation Board may appeal to the Minister within thirty days of decision in the prescribed manner and form.

Appeals Tribunal

35. (1) Subject to subsection (2), the Minister shall, within seven days of receipt of an appeal in accordance with section 34, appoint and convene an *ad hoc* appeals tribunal consisting of

(a) a Chairperson, who shall be a legal practitioner of not less than ten years legal experience; and

(b) four other members who shall be experts, having qualifications and experience of not less than ten years in matters relevant to the subject of the appeal.

(2) If an appeal is dismissed, the Tribunal may order the appellant to pay to the Energy Regulation Board the costs incurred by the Energy Regulation Board in connection with the appeal.

(3) If an appeal is allowed, the Tribunal may order the Energy Regulation Board to pay to the appellant the costs incurred by the appellant in connection with the appeal.

(4) The Tribunal shall, within fourteen days of determining an appeal, inform the appellant and the Energy Regulation Board of its decision, stating the reasons thereof.

Functions of Tribunal

36. (1) The functions of the Tribunal are to—

(a) hear appeals made to it under this Act; and

(b) perform other functions that are assigned to it under this Act or any other written law.

(2) The Tribunal may—

(a) order the parties or either of them to produce to the Tribunal information that the Tribunal considers necessary for purposes of the proceedings; or

(b) take any other course which may lead to the just, speedy and inexpensive settlement of any matter before the Tribunal.

(3) The Tribunal may summon witnesses, call for the production of, or inspection of, books, documents and other things, and examine witnesses on oath, and for those purposes, the Chairperson is authorised to administer oaths.

(4) A summons for the attendance of any witness or the production of any book, document or other thing shall be signed by the Chairperson and served in the prescribed manner.

Secretariat of Tribunal

37. The Ministry responsible for energy shall provide the necessary secretarial and accounting services to the Tribunal to perform its functions under this Act.

Proceedings of Tribunal

38. (1) Three members of the Tribunal shall form a quorum.

(2) Any question at a sitting or meeting of the Tribunal shall be decided by a majority of the votes of the members of the Tribunal at the sitting or meeting and in the event of an equality of votes, the person presiding at the sitting or meeting shall have a casting vote in addition to that person's deliberative vote.

(3) A party to a hearing of the Tribunal may be represented by a legal practitioner or, if the party so elects, by any other person or in person.

(4) A decision of the Tribunal shall be in the form of a reasoned judgment and a copy thereof shall be supplied to each party to the proceedings and to every person affected by the decision.

(5) If a person is present at a meeting of the Tribunal at which any matter is the subject of consideration, and in which matter the person or that person's spouse is directly or indirectly interested in a private capacity, that person shall, as soon as is practicable after the commencement of the meeting, disclose the interest and shall

not, unless the Tribunal otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

(6) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

(7) The Tribunal may, for the purpose of any proceedings, use assessors or experts that the Tribunal may determine.

(8) The Tribunal shall cause to be kept a record of its proceedings.

Costs

39. (1) The Tribunal may make an order as to costs as it may consider just having regard to the merits of the matter.

(2) Subject to subsection (1), the costs and charges in connection with proceedings before the Tribunal shall be the costs reasonably incurred by the person in connection with the proceedings or part of those costs that is determined by the Tribunal.

Appeal from decision of Tribunal

40. A person aggrieved with a decision of the Tribunal may appeal to the High Court within thirty days of the determination.

Allowances of members and secretariat

41. There shall be paid to the members and the secretariat of the Tribunal allowances that the Emoluments Comission may, on the recommendation of the Minister, determine.

Rules

42. (1) The Chief Justice may, by statutory instrument, make rules relating to—

(a) the manner and form for lodging of appeals under this Part;

(b) the mode of summoning persons before the Tribunal;

(c) the form and manner of service of a summons requiring the attendance of a witness before the Tribunal and the production of any book, record, document or thing;

(d) the procedure to be followed and rules of evidence to be observed in proceedings before the Tribunal; and

(e) the functions of the assessors and experts to the Tribunal.

(2) Rules made under this section may, in particular, provide -

(a) that before any matters are referred to the Tribunal, the Tribunal shall, in a manner that may be provided by the rules, have been brought before and investigated by the Commission in this respect;

(b) for securing notices for the proceedings and specifying the time and manner of the proceedings; and

(c) for securing that any party to the proceedings shall, if that person requires, be entitled to be heard by the Tribunal.

PART VII

THE ENERGY FUND

Establishment of Fund

43. (1) There is established the Energy Fund for the purposes of—

(a) ensuring stability of supply in the energy sector;

(b) the development of the energy sector;

(c) ensuring the availability of strategic reserves; or

(d) any other purposes as may be prescribed.

(2) The Fund consists of monies that may—

(a) be appropriated to the Energy Regulation Board by Parliament for the purpose of the Fund;

(b) by or under any other law, be payable to the Fund;

(c) vest or accrue to the Fund; and

(d) subject to the approval of the Minister responsible for finance be paid to the Energy Regulation Board from any levy which may be imposed and collected for the purposes of subsection (1).

(3) Subject to the approval of the Minister, the Energy Regulation Board may—

(a) accept monies by way of grants or donations from a source within or outside Zambia;

(b) raise by way of loans or otherwise, the monies that it may require for the discharge of its functions; and

(c) charge and collect fees for services provided by the Energy Regulation Board.

Administration of Fund and accounts

44. (1) The Minister may, by statutory instrument, on the recommendation of the Energy Regulation Board, make regulations to provide for —

(a) the administration and management of the Fund;

(b) the activities that the Fund shall finance and the manner of financing the activities; and

(c) any other matter necessary for the efficient operation, administration and management of the Fund.

(2) The Minister shall ensure that prudent controls are established for the Fund relating to—

(a) fiscal controls and accounting procedures governing the Fund;

(b) reporting procedures for matters relating to the Fund; and

(c) investment of the monies of the Fund.

(3) The Board shall cause to be kept proper books of accounts and other records relating to the accounts of the Fund.

(4) The Fund shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General.

(5) The Board may order any other audit in addition to the annual audit specified under subsection (4).

(6) The Auditor's fees shall be paid by the Energy Regulation Board.

Annual report

45. (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Energy Regulation Board shall submit to the Minister a report concerning the activities relating to the Fund during the financial year.

(2) The report referred to in subsection (1) shall include information on the financial affairs relating to the Fund and there shall be appended to the report-

(a) an audited statement of financial position;

(b) an audited statement of comprehensive income; and

(c) such other information as the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next afer receipt of the report referred to in subsection (2), lay the report before the National Assembly.

PART VIII

General Provisions

Energy Regulation Board to issue guidelines

46. (1) The Energy Regulation Board may, in the exercise of the Energy Regulation Board's functions under this Act, issue guidelines as are necessary for the better carrying out of the provisions of this Act.

(2) The Energy Regulation Board shall publish the guidelines issued under this Act in the *Gazette* and any other electronic media that the Energy Regulation Board may determine.

(3) The guidelines shall take effect on the date of publication and shall bind all persons licensed under this Act.

Service of notices

47. (1) Any notice or other documents required or authorised to be served under this Act may be given—

(a) by delivering it to the person to whom it is directed;

(b) by leaving it at the usual or last known place of abode of that person, except that if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it to some conspicuous part of the premises;

(c) by sending it in a pre-paid registered letter addressed to that person at the person's usual or last known place of residence, place of business or postal address; and

(d) in the case of a company, by delivering it to the person in charge of the premises or to the person determined to be responsible, to take appropriate corrective action in order to comply with this Act, or any directives issued by this Act, or any other law administered by the Energy Regulation Board.

Prohibition of tampering with quality and illegal vending

48. (1) A person shall not knowingly—

(a) tamper with the quality of petroleum products;

(b) conduct petroleum product business without safety equipment; or

(c) sell or convey, or store petroleum or petroleum products in unauthorised premises or an authorised facility.

(2) Any person who contravenes subsection (1), commits an offence and is liable, on conviction—

(a) in the case of an individual to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both; and

(b) in the case of a body corporate, to a fine not exceeding ten percent of the annual turnover of that corporate body or one million penalty units, whichever is higher.

Offences by principal officers of body corporate or unincorporate body

49. Where an offence under this Act is committed by a body corporate or unincorporate body, with the knowledge, consent or connivance of a director, manager or shareholder of that body corporate or unincorporate body, that director, manager or shareholder is liable, on conviction, to the penalty specified for the offence.

Information to be furnished to Energy Regulation Board

50. (1) The licensee shall be required to provide to the Energy Regulation Board, information or reports concerning the licensed activity of the licensee, financial, technical or any other information in a manner prescribed and by a reasonable date set by the Energy Regulation Board.

(2) In this section " information " includes documents, accounts, estimates, statistics, returns or reports whether or not prepared specifically at the request of the Energy Regulation Board of any description specified by the Energy Regulation Board.

(3) A licensee or person who contravenes subsection (1), is liable to pay a fine not exceeding five hundred thousand penalty units imposed by the Energy Regulation Board and the Energy Regulation Board may suspend the licensee's licence for a period not exceeding three (3) months.

(4) Late submission of information referred to in this section shall attract a fine of not less than one hundred thousand penalty units for each day that a licensee or a person delays in submitting information after the request for such information has been made by the Energy Regulation Board, in addition to the penalty stated in subsection (2).

Compounding of certain offence by Energy Regulation Board

51. Subject to the written consent of the Director of Public Prosecutions and where the Energy Regulation Board is satisfied after an investigation, and a person admits that the person has committed an offence under this Act, the Energy Regulation Board may compound the offence by collecting from that person a sum of money that the Energy Regulation Board considers appropriate, but not exceeding fifty percent of the maximum amount of the fine to which that person would have been liable on conviction, and a person having made that payment shall not thereafter be prosecuted in relation to the offence so compounded**.**

Administrative penalty

52. (1) Where the Energy Regulation Board is satisfied , after due investigation, and a person admits that the person has contravened a provision of this Act, which is not an offence, the Energy Regulation Board may impose and administer a penalty as prescribed.

(2) If a person, on whom an administrative penalty is imposed, in accordance with this section, fails to pay the penalty within the time ordered by the Energy Regulation Board, the Energy Regulation Board may recover the penalty by action in a court of competent jurisdiction.

Direction to cease operation of unlicensed activity

53. (1) The Energy Regulation Board may, where an activity is being operated in contravention of this Act, direct the operators of the activity, to take, within a reasonable time limited by the notice, all necessary steps to cease operations, and to dismantle, to the satisfaction of the Energy Regulation Board, any plant and equipment used for the purposes of the enterprise.

(2) Where a direction given under this section is not complied with, the Energy Regulation Board by its staff or agents may enter into the place where the enterprise is being operated and cause the direction to be so carried out.

(3) The costs to the Energy Regulation Board of any action under subsection (2) are recoverable, as a debt due to the Energy Regulation Board, in any court of competent jurisdiction.

Regulations

54. (1) The Minister may, on the recommendation of the Energy Regulation Board, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

(2) Despite the generality of subsection (1), regulations may make provision for—

(a) the form and manner of making applications for licences and the fees payable on that application;

(b) standards with regard to the quality, safety and reliability of supply of energy and related installations;

(c) the maintenance of stability of supply of energy within the Republic;

(d) the securing of safety of the public from personal injury or damage to property arising from regulated activities under the energy sector;

(e) reporting of and carrying inquiries into accidents involving the operation of any licensee or associated plant, equipment or vehicles; and

(f) the fees payable under this Act.

(3) Subject to subsection (2), in the application of any regulations under this section to a licensee engaged in the generation, transmission, distribution or supply of electricity, such regulations shall have effect subject to the provisions of the Electricity Act, 2019, and any other relevant written law. Act No. of 2019

(4) Regulations made under the provisions of this Act may create offences in respect of any contravention of the regulations and may for that offence impose penalties not exceeding three hundred thousand penalty units or to imprisonment for a term of three years, or to both.

(5) The Minister may, in exercise of the powers conferred by this section, prescribe, by statutory instrument, for different regulations to apply to different enterprises or consumers or to different classes of enterprises or consumers.

55. (1) The Energy Regulation Act, 1995 is repealed. Repeal of Cap. 436

(2) Despite subsection (1), the Second Schedule applies to the savings and transitional arrangements.

(3) Despite subsection (1), a person who immediately before the commencement of this Act, held office as a member of the Board shall hold office as a member of the Board for a period of three months after which the Minister shall appoint the members of the Board in accordance with the provisions of this Act.

FIRST SCHEDULE

(Section 3)

ADMINISTRATION OF BOARD

PART I

THE BOARD OF THE ENERGY REGULATION BOARD

1. (1) The seal of the Energy Regulation Board shall be a device that may be determined by the Board and shall be kept by the Secretary. Seal of Board

(2) The affixing of the seal shall be authenticated by the Chairperson or Vice-Chairperson and the Secretary or any other person authorised in that behalf by a resolution of the Board.

(3) A contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Energy Regulation Board by the Director-General or any other person generally or specifically authorised by the Board in that behalf.

(4) A document purporting to be a document under the seal of the Energy Regulation Board or issued on behalf of the Energy Regulation Board shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

Tenure of office and vacancy of member

2. (1) A member of the Board shall, subject to the other provisions of this Schedule, hold office for a term of three years and may be re appointed for a further term of three years.

(2) On the expiration of the term for which a member is appointed, the member shall continue to hold office until another member is appointed, but in no case shall any extension of the period exceed three months.

(3) The office of a member shall be vacated—

(a) on the member's death;

(b) if the member is adjudged bankrupt;

(c) if the member is absent from three consecutive meetings of the Board, of which the member has had notice, without the prior approval of the Energy Regulation Board;

(d) on the expiry of one month's notice of the member's intention to resign, given by the member in writing to the Minister;

(e) if the member becomes legally disqualified from performing duties as a member;

(f) if the member is convicted of an offence under this Act or any other law.

(4) Where there is a vacancy in the membership of the Board before the expiry of the term of office, the Minister shall appoint another person to replace the member who vacates office but that person shall only hold office for the remainder of the term.

Proceedings of Board

3. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of its business at least once in every three months at such places and times as the Board may determine.

(3) On giving notice of not less than fourteen days, a meeting of the Board may be called by the Chairperson and shall be called if not less than one-third of the members so request in writing except that if the urgency of a particular matter does not permit the giving of any notice, a special meeting may be called on giving a shorter notice.

(4) Five members of the Board shall constitute a quorum.

(5) There shall preside at a meeting of the Board

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; or

(c) in the absence of the Chairperson and the Vice-Chairperson, such member of the Board as the members present may elect from among themselves for the purpose of that meeting.

(6) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

(7) The Board may invite any person whose presence, in its opinion, is desirable to attend and participate in the deliberations of a meeting of the Board, but that person shall have no vote.

(8) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or any defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceedings.

(9) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board.

Allowances

4. A member of the Board or any committee of the Board thereof shall be paid allowances that may be determined by the Emoluments Commission on recommendation from the Minister.

Disclosure of interest

5. (1) A person who is present at a meeting of the Board or a committee of the Board at which any matter, is subject of consideration and in which that person or any member of the person's relative or associate is directly or indirectly interested in a private capacity shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to that matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which the disclosure is made.

Immunity

6. An action or other proceedings shall not lie or be instituted against a member of the Board, a committee of the Board or a member of staff of the Energy Regulation Board, for or in respect of any act or thing done or omitted to be done in good faith in the exercise or performance, of any of the powers, functions or duties conferred under this Act.

Committees of Board

7. (1) The Board may, for the purposes of performing its functions, establish committees that it considers necessary and delegate to any of those committees any of its functions or the functions of the Energy Regulation Board.

(2) The Board may appoint as members of a committee persons who are or are not members of the Board, except that at least one member of the Board shall be a member of a committee.

(3) Despite the generality of subparagraphs (1) and (2), the Board may appoint special committees, composed of some members of the Board and persons representing relevant regulatory agencies, to perform such other regulatory functions that require collaborative efforts with other regulatory agencies.

(4) A person serving as a member of a committee shall hold office for a period that the Board may determine.

(5) Subject to any specific or general direction of the Board, a committee may regulate its own procedure.

Prohibition of disclosure of information to unauthorised persons

8. (1) A person shall not, without the consent in writing given by, or on behalf of, the Energy Regulation Board, publish or disclose to any person otherwise than in the course of duties, the contents of any documents, communication, or information, which relates to, and which has come to that person's knowledge in the course of duties under this Act.

(2) Any person who knowingly contravenes subsection (1), commits an offence and is liable on conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three months, or to both.

PART II

FINANCIAL PROVISIONS

Funds of Energy Regulation Board

9. (1) The Funds of the Energy Regulation Board shall consist of such monies as may—

(a) be appropriated by Parliament;

(b) be paid to the Energy Regulation Board by way of grants or donations;

(c) be derived from interest on investment made under paragraph (4); and

(d) vest in or accrue to the Energy Regulation Board.

(2) The Energy Regulation Board may—

(a) accept moneys by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;

Act No. 1 of 2018

(b) subject to the Public Finance Management Act, 2018, raise by way of loans or otherwise, moneys that the Energy Regulation Board may require for the discharge of the Energy Regulation Board's functions; or

(c) in accordance with the regulations made under this Act, charge and collect fees for services provided by the Energy Regulation Board.

(3) There shall be paid from the funds of the Energy Regulation Board—

(a) the salaries, allowances and loans of members of staff of the Energy Regulation Board;

(b) reasonable travelling, transport and subsistence allowances for members of the Energy Regulation Board or members of any committee of the Energy Regulation Board when engaged in the business of Energy Regulation Board, at rates that the Board may, with the approval of the Minister, determine;

(c) expenses of the Tribunal; and

(d) any other expenses incurred by the Energy Regulation Board in the performance of the Energy Regulation Board's functions.

(4) The Energy Regulation Board may invest, in a manner that the Energy Regulation Board does not immediately require for the performance of the Energy Regulation Board's functions.

Financial year

10. The financial year of the Energy Regulation Board shall be the period of twelve months ending on 31st December in each year.

Accounts

11. (1) The Energy Regulation Board shall cause to be kept proper books of accounts and other records relating to the Energy Regulation Board's accounts.

(2) The accounts of the Energy Regulation Board shall be audited by the Auditor-General or by auditors appointed by the Auditor-General.

(3) The auditor's fees shall be paid by the Energy Regulation Board.

Annual report

12. (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Energy Regulation Board shall submit to the Minister a report concerning its activities during the financial year.

(2) The report referred to in subparagraph (1), shall include information on the financial affairs of the Energy Regulation Board and there shall be appended to the report

(a) an audited balance sheet;

(b) an audited statement of financial position;

(c) an audited statement of comprehensive income; and

(d) such other information as the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1), lay the report before the National Assembly.

SECOND SCHEDULE
(Section 88(2))

SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule " former Energy Regulation Board " means the Energy Regulation Board established under the repealed Act.

Staff of Board

2. (1) For the avoidance of doubt, a person who, before the commencement of this Act, was an officer or employee of the former Energy Regulation Board, shall continue to be an officer or employee of the Energy Regulation Board, as the case may be, as if appointed or employed under this Act.

(2) The service of the persons referred to in sub-paragraph (1) shall be treated as continuous service.

(3) Nothing in this Act affects the rights and liabilities of any person employed or appointed by the former Energy Regulation Board before this Act comes into force.

Transfer of assets and liabilities

3. (1) On or after this Act comes into force, there shall be transferred to, vest in and subsist against the Energy Regulation Board by virtue of this Act and without further assurance, all assets, rights and obligations which immediately before that date were the assets, rights, liabilities and obligations of the former Energy Regulation Board.

(2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Energy Regulation Board was a party immediately before the commencement of this Act whether or not of such a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if

(a) the Energy Regulation Board had been party to it;

(b) for any reference to the former Energy Regulation Board there was substituted, with respect to anything falling to be done on or after this Act comes into force, a reference to the Energy Regulation Board; or

(c) for any reference to any officer of the former Energy Regulation Board, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of

this Act, a reference to such officer of the Energy Regulation Board as the Energy Regulation Board shall designate.

(3) Where under this Act, any assets, rights,liabilities and obligations of the former Energy Regulation Board are deemed to be transferred to the Energy Regulation Board in respect of which transfer a written law provides for registration, the Energy Regulation Board shall make an application in writing to the appropriate registration authority for registration of the transfer.

(4) The registration authority, referred to in subparagraph (3), shall make such entries in the appropriate register as shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.

(5) A licence or authorisation granted in accordance with the repealed Act, whether to a company or an individual, shall be deemed, until expiry, revocation or cancellation of that licence or authorisation, as provided in the repealed Act, to be a licence or authorisation granted in accordance with this Act, but subject to any rights or benefits accruing, or any liabilities suffered, under the repealed Act, but without the right of renewal.

Legal proceedings

4. (1) Any legal proceedings or applications of the former Energy Regulation Board pending immediately before this Act comes into force by or against the former Energy Regulation Board may be continued by or against the Energy Regulation Board.

(2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Energy Regulation Board, may be instituted by or against the Energy Regulation Board.

Strategic Fund

5. At the commencement of this Act all monies held by the Energy Regulation Board for the purposes of strategic funds shall be deemed to be monies vested in and accruing to the Fund.